



CITY OF EVERETT  
Land Use Hearing Examiner

**BEFORE THE HEARING EXAMINER  
FOR CITY OF EVERETT**

In the Matter of the Application of	)	
	)	
<b>Everett Gospel Mission</b>	)	REVIII 21-001
	)	
For a Temporary Shelter Use permit	)	
with modifications to use-specific	)	
standards (Review III)	)	
	)	FINDINGS, CONCLUSIONS AND
on property located at 2402 37th Street,	)	DECISION
<u>Everett, Washington</u>	)	

**SUMMARY OF DECISION**

The request for a Review III temporary shelter use permit with modifications to use-specific standards to develop and operate a temporary shelter pilot project on City-owned property at 2402 37th Street is **GRANTED** subject to conditions.

**SUMMARY OF RECORD**

**Request:**

Everett Gospel Mission (Applicant) submitted an application seeking approval of a Review III temporary shelter use permit with modifications to use-specific standards to develop and operate a temporary shelter pilot project on City-owned property at 2402 37th Street, which is a 1.5-acre vacant site directly east of the Everett Gospel Mission.

**Hearing Date:**

The Everett Hearing Examiner conducted a virtual open record public hearing on the request on June 10, 2021. The record was held open until June 14, 2021 to allow any members of the public having difficulty joining the virtual hearing to submit written comments, with time scheduled for responses from the parties if post-hearing comments were submitted. No post-hearing comments were submitted, and the record closed on June 14, 2021. No in-person site visit was conducted, but the undersigned viewed the subject property on Google Maps.

**Testimony:**

During the open record hearing, the following individuals presented testimony under oath:

John Hull, Everett Gospel Mission, Applicant Representative

Steve Ingalsbe, Planner/City of Everett Land Use Manager

Julie Willie, City of Everett Community Development Director  
Captain David Fudge, Everett Police Department, North Precinct Manager  
Brock Howell, Everett Station District Alliance Exec Director  
Ed Petersen, Everett Station District Alliance President

**Exhibits:**

At the virtual open record hearing, the following exhibits were admitted in the record:

1. Everett Community, Planning & Economic Development Department Staff Report to the Examiner, dated June 3, 2021
2. Vicinity Map - GO! Sync 2020 Aerial of subject property
3. Site Plan
4. Pallet Shelter sample photo
5. Application, dated April 20, 2021
6. Management Responsibility Plan, undated (eight pages)
7. State Environmental Policy Act (SEPA) determination of non-significance (DNS), issued May 17, 2021
8. (SEPA) Environmental Checklist
9. Public comment email from Lyla Anderson, dated April 30, 2021
10. Notice of Application and Hearing
  - a. Affidavit of Posting signed by John Hull, April 29, 2021
  - b. Everett Herald Affidavit of Publication, notarized April 29, 2021
  - c. Notice of Application, Hearing, and Optional DNS, dated April 28, 2021<sup>1</sup>
  - d. Certificate of Mailing, signed by Kathleen Davis, June 3, 2021 indicating a mailing date of April 29, 2021
11. Use Permit Application with attached project narrative/responses to criteria for approval and attached email from Paul McKee, City of Everett Real Property Manager, authorizing the Applicant to apply for a temporary use permit on City owned land, dated April 15, 2021
12. Memorandum from Community, Planning & Economic Development Department containing corrections to the Staff Report (Exhibit 1), undated and submitted prior to hearing

After considering the testimony and exhibits submitted, the Hearing Examiner enters the following findings and conclusions.

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<sup>1</sup> The undersigned takes official notice that this issued Notice of Application, Hearing, and Optional DNS is dated April 28, 2020, which appears to be a typo, as the signatory was not an employee of the City at that time.

## FINDINGS

1. Everett Gospel Mission (EGM, Applicant) submitted an application seeking approval of a Review III temporary shelter use permit with modifications to use-specific standards to develop and operate a temporary shelter pilot project on City-owned property at 2402 37th Street. The subject property is a 1.5-acre vacant site directly east of the Everett Gospel Mission men's shelter and day center, which is addressed as 3711 Smith Avenue in Everett. *Exhibits 1, 2, 5, and 11; Google Maps site view.*
2. The Everett Gospel Mission has been in operation in Everett since 1961 providing shelter to individuals experiencing homelessness, primarily single men. In the 1990s, EGM took on providing direct services to women and children. They are known as an agency with expertise in serving the unhoused in Snohomish County. EGM has been at its current Smith Avenue location since 1971. The Mission and its neighbors have learned that some individuals are not good candidates for the type of congregate shelter available at the Mission, due to social anxiety disorders, mental health disorders such as PTSD, or substance abuse issues, which has resulted in the situation that many individuals come to the neighborhood for services other than shelter (e.g., meals, case management) who then end up staying under the Interstate 5 bridge or in illegal campsites in the area. It is not uncommon for unhoused persons to be found sleeping on the sidewalks or in the shelter provided by doorways to the local businesses. The management at EGM and in many cities throughout the nation have been seeking humane, effective alternatives for providing shelter to this group of individuals. A local company, called Pallet, has developed and sells small portable individual shelter structures for use in homeless encampments. The Pallet shelter is a small, eight-by eight-foot individual shelter building that can quickly be placed and/or removed from property as encampments are located. Following the successful deployment of temporary Pallet shelter encampments in other cities, the Applicant is now requesting approvals needed to run a pilot Pallet shelter project on the subject property, of which the City has granted approval for temporary use to EGM. The location of the proposed site immediately adjacent to the Mission affords multiple economies in that staff and case management services are already in place at the proposed location to serve the pilot shelter project. *John Hull Testimony; Exhibits 4 and 11.*<sup>2</sup>
3. The subject property is immediately east of the Mission, abutting the southern edge of the Interstate 5 right-of-way, east of Smith Avenue and north of the terminus of 38th Street. Surrounding parcels are (or have recently been) developed with various commercial and/or light industrial uses, including a gas station, a Tuff Shed business, Evergreen Moving Systems storage facility, a sheet metal manufacturing site, the railroad, and other similar uses. The City has installed water and electricity to the site, which is currently vacant and was formerly used as log storage; it is fully graveled. The property is owned by the City of Everett, but through a lease currently under negotiation, it would be under the control of the Everett Gospel Mission, which is a religious organization. *Exhibits 1, 2, and 6; Google Maps site view.*

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<sup>2</sup> In addition to the photo of a Pallet shelter in the record at Exhibit 4, the undersigned takes judicial notice of the information available at <https://www.palletshelter.com/>.

4. The instant proposal would place 20 Pallet eight- by eight-foot shelters designed to provide sleeping facilities for up to two people on the site. At the outset, the request is to allow up to 30 individuals to reside in the Pallet shelters, which are proposed to be in place for an introductory period of one year. Each shelter would have electricity, interior lighting, a heater, a fire extinguisher, a door with a lock, windows, and a second emergency egress. Electrical permits would be required for each unit, but no building permits are required. Also proposed are one shelter for a staff site manager, two shipping containers for the storage of supplies and personal belongings of homeless individuals in certain conditions, and three portable toilets. Four ADA-accessible shelter units and one ADA-accessible restroom are proposed. A drinking fountain would be provided near the center of the site. No larger structures are proposed to be inhabited, and no single structure would house more than two people. All structures would be sited within an eight-foot tall fence surrounding the proposed structures within the 1.5 acre parcel. A 24-foot wide vehicle accessible gate would enter the site from 37th Street, and a second four-foot wide gate would provide secondary access from farther south on the west boundary of the fenced perimeter. Exhibit 4 is a photo of a Pallet shelter. All proposed structures would be sited 40 feet or farther from abutting privately owned property lines as shown on the site plan. Individuals residing in the shelters would use existing showers and laundry facilities next door at the Mission, and would also get meals there. The Mission would also provide Pallet shelter inhabitants with clothing and internet access. This makes the project much more affordable and more easily temporary. The requested approval includes the possibility of the project expanding and/or extending if it proceeds in an acceptable manner as described above. If there are no problems in the first year of operation (or if problems that arise are able to be adequately addressed), the Applicant proposes to expand the temporary shelter use by placement of up to 54 total (maximum ) shelters to house individuals experiencing homelessness, and to retain the structure encampment at the subject property for up to five years. *Exhibits 1, 3, 4, 6, and 11; John Hull Testimony.*
5. The ultimate goal of the proposal is to provide a space for individuals to transition out of homelessness. It is the Applicant's understanding that unhoused individuals need time and space to recover from the trauma of being homeless, a chance to live with dignity in a secure setting, and to grow in a sense of having agency and control over their own lives. Measurable successes would be: residents successfully stabilized in temporary housing; residents establishing and maintaining relationship with support resources while they attempt to return to housing; and an overall reduced community cost in terms of emergency services, law enforcement, and medical services. *Exhibit 6.*
6. The proposed use meets the Unified Development Code use definition of group housing, temporary shelter: "*Group housing, temporary shelter*" means a shelter providing temporary housing accommodations (ninety days or less) that includes a sponsor and managing agency, the primary purpose of which is to provide temporary shelter for people experiencing homelessness in general or for specific populations of the homeless, or temporary shelter for people experiencing domestic violence. In addition to shelters that provide shelter for up to ninety days, temporary shelters may also include temporary building encampments, temporary safe parking areas, temporary outdoor

encampments, or vehicle resident safe parking for the homeless, and temporary tiny house encampments. *Everett Municipal Code (EMC) 19.04.050*. This type of temporary outdoor structure encampment is further regulated by use-specific development standards established in EMC 19.08.200. For this land use, the term “temporary” specifically means not affixed to land permanently and not connected to underground utilities. *EMC 19.08.200*.

7. The subject property is zoned Light Industrial, LI-1. *Exhibit 1*. Pursuant to Everett Municipal Code (EMC) 19.05.080 Table 5-1, temporary shelter uses accommodating 12 or more persons may be operated in the LI-1 zone by a religious organization that may host people experiencing homelessness on property owned or controlled by the religious organization whether within buildings or elsewhere on the property outside of buildings, subject to the conditions set forth in EMC 19.08.200 and any conditions of an administrative use permit, which is issued through the Review II (REV II) process. *EMC 19.05.080 Table 5-1*. Because the Applicant has requested modifications to three use-specific standards, the instant proposal is reviewed as a Review III (REV III) process, which requires a public hearing and decision by the City’s hearing examiner. *EMC 15.02.140.D*.
8. Approval of the proposal would assist the City in placing currently unhoused individuals into shelter and off of the sidewalks throughout Everett Station District. The proposed location would provide safety, security, and stability for those sheltered, with convenient access to necessary support services at the Mission, and would reduce the conflicts currently and historically occurring as a result of the unhoused locating on City sidewalks and in illegal encampments in the neighborhood. In researching the proposed product, the Applicant and Planning Staff learned that Pallet shelter projects that have gone up in other cities throughout the county have been successful, reducing crime and drug use, and in some cases becoming an accepted and even welcomed addition to the community. One upside to the Pallet shelter is that it does not require construction that permanently alters land, making them very portable and thus more affordable. The Pallet shelters could all be removed from the site in one day and the site completely restored to its vacant status in a very short period of time. Supportive services that can be provided through the Mission would include (but not be limited to): assistance with applications for Social Security disability programs, VA benefits, Medicaid, Medicare, and other assistance programs; life skill development through occupational therapy; referrals for chemical dependency and mental health treatment options; referrals and transportation to community health clinics; and other supportive services capable of assisting project residents in transitioning to more permanent housing. Residents could be seen by visiting professionals on site or at the Mission, ranging from case managers, visiting nurses, mental health and chemical dependency counselors, and others. *Exhibits 1 and 11; John Hull Testimony*.
9. Pursuant to EMC 19.08.200.B(3), an applicant for a temporary shelter is required to identify a managing agency and to prepare an encampment management responsibility plan, to be included with the permit application. The Applicant did prepare a Management Responsibility Plan identifying EGM as managing agency, which Planning

- Staff indicated fulfilled the requirements of this use-specific standard. *Exhibits 1 and 6*. It is likely that this document would be further edited and refined to better match the proposal and to satisfy County and State requirements. *John Hull Testimony*. The Mission would provide general property management and oversee day to day operations; however, the Mission would retain the services of a private security firm to monitor and support physical safety for all those present onsite 24/7. The Mission would identify a single project manager to oversee all staffing functions, an operations manager to spearhead site management, janitorial staff, and maintenance staff, all of whom would coordinate efforts to provide a clean, dignified, safe space for the residents and to satisfy all requirements of the finally approved management plan. The emergency egress gate would be alarmed and both site entrances would be monitored by security around the clock to ensure that only authorized persons are on site. The management would ensure that each shelter is emptied once every 90 days, cleaned, and inspected to ensure operation of all safety features, including batteries in smoke detectors. A security and emergency plan would be developed and implemented by management on site. *Exhibit 6*.
10. The proposed use does not include proposed “safe parking” as contemplated in EMC 19.09.200.B(4). *Exhibits 1 and 11; EMC 19.08.200.B(4)*. The proposed use is not a temporary tiny home community as contemplated in EMC 19.08.200.B(5); however, the temporary Pallet shelter use would provide each Pallet shelter with lockable windows and doors, a space heater, and a fire extinguisher. Residents in the shelters would have access to the three proposed restroom facilities (one ADA) on the shelter site, and would further have access to restrooms, showers, and laundry facilities at the Mission next door. *Exhibits 1, 6, and 11*.
  11. In developing the instant proposal, the Applicant sought input from community stakeholders in the vicinity of the subject property through a series of meetings with members of the Everett Station District Alliance. All owners of the 21 parcels within 500 feet of the subject property’s boundaries received individual notice of the proposal and informed of their opportunity for comment. According to Applicant and Everett Police Department representatives, the neighbors have come around to a position of full support for the proposal over the course of six months. Stakeholders are very much aware of the need for the service and did not submit comments opposing the proposal during the pre-hearing public comment period. The owners of the 21 nearest parcels would receive an implementation schedule notification three weeks prior to commencement of operations, and two weeks prior to moving residents onsite, would be provided with the opening date and a 24/7 contact number for managing agency staff. This number would be provided for the express purpose of informing operators of nuisances and other problems believed to be associated with the Pallet shelter project. *Exhibit 6; Testimony of John Hull and Captain David Fudge*.
  12. At the same time the instant proposal commences operation, the Everett Police Department would begin implementation of a new “no sit, no lie” ordinance within a one mile radius of the site. *Exhibit 6; Testimony of Captain David Fudge, EPD*. The City of Everett Community Development Director testified at hearing that the homeless are not safe on the streets, and that the proposed pallet community would improve their safety

and wellbeing, but would also result in conditions in which local businesses would be less impacted. Providing shelter and restrooms to the targeted unhoused population would reduce the environmental impact of homeless and would provide a secure space for unhoused persons to safely store the only possessions they have. The Director noted that the City spends 100,000 a year cleaning up the possessions of the unhoused and removing people from sidewalks. The instant project is expected to improve the useability of sidewalks, and to reduce the prevalence of rodents and birds who come in to pick off garbage left behind by those with no homes to go to. *Julie Willie Testimony.*

13. The proposed site is in an isolated location, which according to Planning Staff is only visible from the Everett Gospel Mission and from an industrial storage yard to the south. Because of these conditions, the Planning Director determined that sight-obscuring fencing is not required around the temporary shelter use. *Exhibit 1.*
14. The City would install lighting on the site, and has represented that such lighting would be installed in a manner consistent with the temporary encampment standards, which require exterior lighting to be directed downward and contained within the temporary encampment. *Exhibits 1 and 6.*
15. The proposed facility would serve adults over the age of 18 unaccompanied by minors who are unhoused in Everett at the time of referral. Following a low-barrier shelter model, it is designed to reduce harm to those served, including those experiencing mental health or substance abuse disorders, and other behavioral issues that present barriers to permanent housing. All inhabitants of the Pallet shelter community would be referred by the Everett Police Department's Community Outreach and Enforcement Team (COET), employees of which would select, screen, and refer each potential inhabitant. As a condition of entering shelter on site, each resident would be required to receive and sign agreement to abide by the Code of Conduct and Community Expectations. In the first 20 shelters, the Applicant proposed to house up to 30 individuals (including some couples and willing roommates). If all goes according to plan and approval duration is extended and the number of units increased, the maximum number of residents would be capped at 100, consistent with EMC 19.08.200.B(9). *Exhibits 1 and 6; Testimony of John Hull and Captain David Fudge, EPD.*
16. As established in City Code, the Code of Conduct would be required to include the following items at a minimum: no drugs or alcohol, weapons, violence, or open flames would be permitted on site; no trespassing into private property, no loitering, no neighbor disturbance in the host neighborhood are permitted; no verbal abuse, intimidating remarks, yelling or degrading remarks against member(s) of the host, host neighborhood, or managing agency are permitted; no littering on the encampment site or in the neighborhood is permitted and weekly trash patrol in the host neighborhood is required; and quiet hours shall be observed daily from 9:00 pm to 7:00 am. Failures to comply with the code of conduct would result in expulsion, at the discretion of the Applicant. *EMC 19.08.200.B(12); Exhibits 1, 6, and 12.*



17. Per EMC 19.08.200.B(13), the managing agency would be required to allow inspections of the temporary encampment by the Snohomish health district without prior notice and to implement all directives of the health district within the time period specified by the district. Further, the agency shall allow access without prior notice to the Everett police department and Snohomish County sheriff. *Exhibits 1, 6, and 11*. Additionally pursuant to EMC 19.08.200.B(14), the managing agency and all residents are required to comply with Washington State statutes and Everett Municipal Code regulations addressing drinking water connections, solid waste disposal, human waste, electrical systems, and fire-resistant materials. The managing agency would be required to appoint a member to serve as a point of contact for the Everett Police Department. At least one managing agency member must be on duty at all times, and the names of on-duty members shall be posted daily. Prospective residents would be required to be screened for sex offender status and warrant checks, and all requirements regarding identified sex offenders or prospective residents with warrants shall be met. Further, EPD must be notified if someone is rejected or expelled from the temporary encampment where the reason for rejection or ejection is an active warrant or a match on a sex offender check, or a rejected/ejected person is a potential threat to the community. The Applicant acknowledged the requirement to operate the facility in conformance with all standards identified in EMC 19.08.2200.B(14). *Exhibits 1, 6, and 11; John Hull Testimony*.
18. The proposal includes four requests for modifications from use-specific standards, the first of which relates to the frequency and duration standard established at EMC 19.08.200.B(2), which reads as follows: "Frequency and Duration. Temporary outdoor encampments may be approved for a period not to exceed four consecutive months or six months during any calendar year; provided however, that a separation of ninety days between subsequent or established outdoor encampments at a particular site is required. The temporary use permit shall specify a date by which the use shall be terminated." The proposal seeks to allow continuous operation of this facility for one year with the possibility of continuing the operation until June 30, 2026, if funding remains available and the program succeeds. As proposed, the Planning Director would review all available information on the project and would be the decision maker on time extensions as well as on expansion of the number of shelters from the initial 20 up to a maximum of 54 structures. Planning Staff recommended approval of this modification and proposed two conditions of approval addressing the possible extension and expansion. *Exhibits 1, 3, 5 and 11*.
19. Vehicular access to the temporary encampment would be from the terminus of 37th Street. However, the target population to be housed on site typically do not own vehicles, and staffing from the Mission would park at the Mission off-site. The Everett Municipal Code contains two conflicting applicable parking standards. Per EMC 19.08.200.B(10), *parking for five vehicles is required*. Per EMC 19.34.020, one space per four bedrooms plus one space for every two employees on shift is required to be provided; this standard would require a minimum of two spaces. The Applicant requested a modification from both standards. The majority of those intended to be served are living on the streets, not in vehicles; most potential residents would not own vehicles. The Mission indicated that no additional staff would be hired to manage this facility, meaning no staff parking would



be needed on the project site. Planning Staff recommended approval of the requested minimum parking standard modification, so as to allow the use to be exempted from providing off-street parking on site, but noted that there is some room for approximately five vehicles outside the fence off street on site. In addition, there is room for bicycle parking to be provided at the site. Planning Staff recommended that no off-street parking be required, but specifically recommended that if off-street parking is required, that it not be paved, so as to preserve the temporary nature of the proposal. There are 15 off street parking stalls at Everett Gospel Mission and there is abundant on street parking in the project vicinity. *Exhibits 1 and 11; Testimony of John Hull and Steve Ingalsbe.*

20. The third requested use-specific modification request relates to the requirement at EMC 19.08.200.B(11) for preparation of a transportation plan including provision for transit services and placement within one-half mile of transit service. The Applicant requested a modification to be excused from the requirement for a transportation plan. As stated previously, the target population lives on the streets, not in vehicles, and most likely no residents would have vehicles, which means the project would not result in traffic impacts. Planning Staff recommended approval of the modification, and indicated that approval was supported by the City Traffic Engineer, who reviewed the request and agreed that a transportation plan need not be required. Regarding the other section 11 requirement, the subject property is within one-half mile of the Everett Station transit center, which provides transit connections throughout the city and region. Planning Staff represented that full pedestrian facilities are available between the site and Everett Station. *Exhibits 1, 6, and 11.*
21. The fourth and final modification request relates to the Code of Conduct minimum standards established at EMC 19.08.200.B(12), which are abbreviated/paraphrased in Finding 16 above. One state-funded grant being used to partially finance the project prohibits use of drugs or alcohol as disqualifying criteria to entry. The Mission proposes to implement Harm Reduction practices regarding drug and alcohol use by residents. The Applicant requests that this mandated provision in the required code of conduct be modified to state: "Use of drugs or alcohol that results in behavior that impacts the residents of the pallet community, or neighbors of the community, will result in the development of an action plan to reduce future community impacts utilizing a harm reduction model." This alteration to the Code of Conduct standards was supported by Planning Staff and the Everett Police Department. *Exhibits 1 and 12; Testimony of John Hull, Steve Ingalsbe, and Captain David Fudge, EPD.*
22. The City of Everett Community, Planning & Economic Development Department assumed the role of lead agency for conducting the environmental review of this proposal pursuant to the requirements of the State Environmental Policy Act (SEPA). A SEPA determination of non-significance (DNS) and the project's environmental checklist were issued on May 17, 2021 and were not challenged prior to hearing. *Exhibits 1, 7, and 8.*
23. Notice of application, open record virtual public hearing, and SEPA DNS in the instant proposal was issued April 29, 2021, including by mail to all owners of property within 500 feet of the subject site's boundaries, posting near the site, and publication in the

Everett Herald. The notice advertised a pre-hearing comment period through May 13, 2021. *Exhibits 1 and 10*. One member of the public submitted written comments prior to hearing, inquiring whether residents of the proposed facility would have access to bathing and laundry facilities, and asking whether they would be allowed to put in a garden. *Exhibit 9*. Planning Staff indicated in response that shelter residents would have access to showers and laundry at the Mission and that water is available on-site. *Exhibit 1*. At hearing, public comment was comprised entirely of eloquent statements of support for the proposal from the Executive Director and President of the Everett Station District Alliance. *Testimony of Brock Howell and Ed Petersen*.

## CONCLUSIONS

### **Jurisdiction:**

Pursuant to EMC 15.02.080, the Everett Hearing Examiner has jurisdictional authority to hear and decide requests for REV III use permits. Pursuant to 19.08.200.B(15)(b), requests for modifications to temporary encampment use standards are reviewed the REV III process by the City's hearing examiner.

### **Criteria and Standards for Review:**

Pursuant to EMC 19.05.068.D approval of a temporary use permit is subject to compliance with the following general evaluation criteria:

1. The proposed temporary use will not be materially detrimental to the public welfare, or injurious to the property or improvements in the immediate vicinity.
2. The proposed temporary use is compatible in terms of location, access, traffic, noise, nuisance, dust control and hours of operation with existing land uses in the immediate vicinity.
3. The proposed temporary use is not otherwise allowable in the zone in which it is proposed.

Pursuant to EMC 15.02.140.D, the following additional requirements must be satisfied in reviewing applications requesting modification of standards for temporary outdoor encampment.

1. The applicant may apply for a temporary use permit that applies standards that differ from those in Section 19.08.200(B) only where, in addition to satisfying the requirements in Section 19.05.068, the applicant submits a description of the standard to be modified and demonstrates how the modification would result in a safe temporary outdoor encampment, safe parking areas or tiny home communities under the specific circumstances of the application. Such requests shall be reviewed by the city's hearing examiner at a public hearing. The hearing examiner shall make a decision regarding the issuance of a temporary use permit and modification of standards. The notice of the time and place of the public hearing shall be provided to the applicant and to any person who, prior to the rendering of the decision on the permit, made a written request for notice or submitted substantial comments on the application for the permit. The public hearing procedures shall be as specified in Section 15.02.200.

2. The hearing examiner shall issue findings within ten business days of the conclusion of the hearing. Within three business days of rendering the written decision, copies shall be mailed to the applicant and all who have requested notice by signing a register provided at the hearing. The hearing examiner's decision shall constitute the city's final decision. Any appeal of the city's final decision may only be made to Snohomish County superior court in accordance with Chapter 36.70 RCW.
3. In considering whether the modification should be granted, the city shall first consider the effects on the health and safety of residents and the community. The burden of proof shall be on applicant.

**Applicable Use-Specific Criteria/Standards:**

Pursuant to EMC 19.08.200.B, the following use-specific standards apply to temporary encampment uses.

1. *Applicability.* These standards apply to any temporary outdoor encampment, safe parking area or tiny home community, hereinafter referred to as "temporary encampments," meeting the frequency and duration standard in subsection (B)(2) of this section.
  2. *Frequency and Duration.* Temporary outdoor encampments may be approved for a period not to exceed four consecutive months or six months during any calendar year; provided however, that a separation of ninety days between subsequent or established outdoor encampments at a particular site is required. The temporary use permit shall specify a date by which the use shall be terminated.
  3. *Encampment Management Responsibility Plan.* Prior to or upon filing their land use application, the managing agency and sponsor shall prepare an encampment management responsibility plan, which shall be included with their permit application.
  4. *Safe Parking for Religious Organization.* Pursuant to RCW 35.21.915, a regional organization may host safe parking efforts at its on-site parking lot without limitations on any other congregationally sponsored uses and the parking available to support such uses during the hosting, except for limitations as follows:
    - a. No less than one space may be devoted to safe parking per ten on-site parking spaces;
    - b. Restroom access must be provided either within the buildings on the property or through use of portable facilities, with the provision for proper disposal of waste if recreational vehicles are hosted; and
    - c. Religious organizations providing spaces for safe parking must continue to abide by any existing on-site parking minimum requirement so that the provision of safe parking spaces does not reduce the total number of available parking spaces below the minimum number of spaces required by Chapter 19.34 EMC.
- ...
6. *Setbacks.*
    - a. The temporary encampment shall be located a minimum of forty feet from the property line of abutting properties containing residential uses; any tent, canopy or membrane structure, as defined in the International Fire Code, must be located at least twenty feet away from any building, parked vehicle, internal combustion engines or other tent, canopy or membrane structure.

- b. The temporary encampment shall be located a minimum of forty feet from the property line of abutting properties in commercial or industrial zones, unless the planning director determines that there is sufficient vegetation, topographic variation, or other site conditions that would justify a lesser setback.
- 7. *Fencing.* Sight-obscuring fencing is required around the perimeter of the temporary encampment unless the planning director determines that there is sufficient vegetation, topographic variation, or other site condition such that fencing would not be needed.
- 8. *Lighting.* Exterior lighting must be directed downward and contained within the temporary encampment.
- 9. *Residents.*
  - a. No children under eighteen are allowed in the temporary encampment. If a child under the age of eighteen attempts to stay at the temporary encampment, the managing agency shall immediately contact Child Protective Services.
  - b. The maximum number of residents within a temporary encampment is one hundred.
  - c. All temporary encampment residents must sign an agreement to abide by the code of conduct and acknowledge that failure to do so shall result in the noncompliant resident's immediate and permanent expulsion from the temporary encampment by the managing agency.
- 10. *Off-street Parking.* Parking for five vehicles shall be provided.
- 11. *Transit Services.*
  - a. A transportation plan is required which shall include provision for transit services.
  - b. The temporary encampment shall be located within one-half mile of transit service.
- 12. *Code of Conduct.* A code of conduct is required to be enforced by the managing agency. The code shall contain the following as a minimum:
  - a. No drugs or alcohol are permitted.
  - b. No weapons are permitted.
  - c. No violence is permitted.
  - d. No open flames are permitted.
  - e. No trespassing into private property in the host neighborhood is permitted.
  - f. No loitering in the host neighborhood is permitted.
  - g. Disturbing neighbors is not permitted.
  - h. No verbal abuse, intimidating remarks, yelling or degrading remarks against member(s) of the host or host neighborhood are permitted.
  - i. No verbal abuse, intimidating remarks, yelling or degrading remarks between members of the temporary encampment or managing agency are permitted.
  - j. No littering on the encampment site or in the host neighborhood is permitted; a weekly trash patrol in the host neighborhood shall be required.
  - k. Quiet hours shall be observed daily from nine p.m. to seven a.m.

13. *Inspections.*

- a. The managing agency shall permit inspections of the temporary encampment by the Snohomish health district without prior notice and implement all directives of the health district within the time period specified by the health district.
- b. The managing agency shall permit access, without prior notice, to the temporary encampment site at all times for the Everett police department and Snohomish County sheriff.
- c. If the city fire marshal finds that fire-related concerns associated with an indoor overnight shelter pose an imminent danger to persons within the shelter, the city may take action to limit the availability to host indoor overnight shelter for religious organizations or any other entity. In addition, the city may require an organization to enter into a memorandum of understanding for fire safety that includes inspections, an outline for appropriate emergency procedures, a determination of the most viable means to evacuate occupants from inside a site with appropriate illuminated exit signage, panic bar exit doors, and a completed fire water agreement indicating: (1) posted safe means of egress; (2) operable smoke detectors, carbon monoxide detectors as necessary, and fire extinguishers; (3) a plan for monitors who spend the night awake and are familiar with emergency protocols, who have suitable communication devices, and who know how to contact the fire department.

14. *Managing Agency Responsibilities.*

- a. The managing agency and temporary encampment residents shall ensure compliance with Washington State statutes and the Everett Municipal Code concerning, but not limited to, drinking water connections, solid waste disposal, human waste, electrical systems, and fire-resistant materials.
- b. The managing agency shall appoint a member to serve as a point of contact for the Everett police department. At least one member must be on duty at all times. The names of the on-duty members shall be posted daily.
- c. The managing agency shall take all reasonable and legal steps to obtain verifiable identification from prospective encampment residents and use the identification to obtain sex offender and warrant checks from the appropriate agency. The managing agency will not be conducting the sex offender and warrant checks but will submit to the appropriate agency the verified identification information obtained through such steps. All of the Everett police department's requirements with respect to identified sex offenders or prospective residents with warrants shall be met.
- d. The managing agency shall immediately contact the Everett police department if someone is rejected or ejected from the temporary encampment where the reason for rejection or ejection is an active warrant or a match on a sex offender check, or if, in the opinion of the on-duty member or on-duty security staff, the rejected/ejected person is a potential threat to the community.
- e. The managing agency shall permit inspections of the temporary encampment by the city's code compliance officers, building inspector, permit services manager, fire marshal or their designee without prior notice. The managing agency shall implement all directives resulting from such inspections within forty-eight hours of notice.

- f. Consistent with the Everett building code, the managing agency may not allow in the encampment, without first obtaining a building permit, any structure, other than tents, canopies or other membrane structures, that is greater than one hundred twenty square feet or provides shelter for more than nine persons.
  - g. The managing agency and temporary encampment residents shall cooperate with other providers of shelters and services for homeless persons within the city and shall make inquiry with these providers regarding the availability of existing resources.
15. *Additional Requirements for Applications Requesting Modification of Standards.*
- a. The applicant may request in their application for standards that differ from those in this section only where the applicant submits a description of the standard to be modified and demonstrates how the modification would result in a safe temporary encampment under the specific circumstances of the application.
  - b. Requests shall be reviewed by the city's hearing examiner at a public hearing. The hearing examiner shall make a decision regarding the issuance of a temporary use permit and modification of standards. The notice of the time and place of the public hearing shall be provided to the applicant and to any person who, prior to the rendering of the decision on the permit, made a written request for notice or submitted substantial comments on the application for the permit. The public hearing procedures shall be as specified in EMC Title 15.
  - c. In considering whether the modification should be granted, the city shall first consider the effects on the health and safety of residents and the community. The burden of proof shall be on applicant.

### **Conclusions Based on Findings:**

#### **Temporary Use Criteria per EMC 19.05.068.C**

1. Based on the record submitted, approval of the proposed temporary use would not be materially detrimental to the public welfare, or injurious to the property or improvements in the immediate vicinity. The project would assist the City in relocating individuals experiencing homelessness off of the sidewalks of the Everett Station District and create a safe, stable place for these individuals to pursue a transition out of homelessness and improves the public welfare of the stakeholders of the Everett Station District area, who have endured encampments outside their businesses and associated reduced revenues for over a decade. The proposal was reviewed by City Police and Fire Staff, who agree that approval would reduce impacts to businesses and other interests in the immediate vicinity from unsheltered individuals living on the streets. Approval would reduce health and safety impacts to the unhoused by offering a safer place to stay while they work to recover from homelessness. *Findings 2, 3, 4, 5, 9, 10, 11, 12, 13, and 23.*
2. The proposed site is ideal for the project. Everett Gospel Mission operates a shelter on the adjacent parcel, which provides a wide range of efficiencies in terms of funding, staffing, utilities, and facilities. Supportive services are available next door, and the unhoused population is aware of this location as a place to obtain help. The site has direct access from the public right-of-way on 37th Street and would be nestled behind the Mission between I5, the railroad, and several light industrial uses. There would not be significant traffic impact, as those to be served are already being served at the next door

site. Security and support personnel would be able to park at the Mission or on the streets, which contain ample legal on street parking. Due to the presence of Interstate 5 and the active rail line, it is unlikely that noise from the proposed use would be audible on surrounding parcels. Quiet hours would be observed on site. Security would be provided 24/7 to protect the project's residents and neighbors. The location is not visible from the street. The site would remain fully fenced to ensure only authorized people are on site. The use is not expected to create dust. *Findings 2, 3, 4, 8, 9, and 13.*

3. Because of the requested modifications to temporary shelter use-specific standards, the project exceeds the scope of temporary shelters allowed in the zone and required REV III review. *Findings 4, 6, and 7.*

*Criteria for Approval of Modifications to Use-Specific Standards per EMC 15.02.140.D:*

4. Notice of the time and place of the June 10, 2021 virtual public hearing was duly provided consistent with the requirements of EMC 15.02.200. *Findings 22 and 23.*
5. Based on the record submitted, the Applicant has succeeded in meeting its burden of showing that the proposal would have overall positive effects on the health and safety of residents and the community. In providing safe, secure shelter for those who will not pursue congregate shelter, in a location with restrooms, meals, laundry, and many supportive services available on site or immediately adjacent, the project would significantly improve the safety and most likely positively affect the personal health of individuals invited to reside in the Pallet shelters. In providing them a secure location to store their belongings, the proposal uniquely supports the needs of many unhoused persons in the area. In removing some portion of this population from the street, the proposal benefits surrounding property and business owners and improves public sanitation. In placing the facility on City-owned property adjacent to the Mission, the proposal is uniquely well cited. *Findings 2, 3, 4, 5, 8, 10, 11, and 12.*
6. The requested four modifications are approved. Allowing a longer duration and frequency than 90 days without requiring intervening placement at other locations makes the fullest use of the opportunity presented by placing the facility adjacent to the Mission. A maximum duration of up to five years, pending Director review and extension as stated in the conditions below, is approved. Based on the availability of parking for Staffing at the Mission and on plentiful legal on street parking in the area, as well as the temporary nature of the use, the proposal is excused from the requirement to provide paved off street parking. No transportation management plan shall be required for this low traffic-impact project. Should the City receive complaints about traffic or parking impacts, the Director can administratively require the provision of a transportation management plan and/or off street parking on the City's parcel during the six month or subsequent reviews. Finally, in order to serve the target population of those not willing to enter congregate care, and based on the experience and success of Harm Reduction model housing for the unhoused in other contexts, the project is excused from the provision in the code-established code of conduct that prohibits the use of drugs and alcohol by residents. *Findings 2, 4, 5, 8, 13, 15, 16, 18, 19, 20, and 21.*



7. The record submitted shows all other use-specific standards to be satisfied. *Findings 9, 10, 11, 13, 14, 15, 16, 17, 19, 20, and 21.*

### DECISION

Based on the foregoing findings and conclusions, the requested Review III temporary shelter use permit with modifications to use-specific standards to develop and operate a temporary shelter pilot project on City-owned property at 2402 37th Street is **GRANTED** subject to the following conditions.

1. The maximum number of Pallet shelters is limited to 20 for shelter guests plus one staff shelter (21 total Pallet shelters), with the maximum number of shelter occupants of 30 resident guests plus one staff member, provided that after six months the Planning Director may authorize an increase of the number of Pallet shelters up to a maximum of 54 shelters for guests plus one staff shelter with a maximum number of 100 resident guest occupants.
2. The maximum length of operation of this facility is limited to one year, provided that the Planning Director may authorize an extension of up to one year at a time, not to exceed a maximum duration of five years at this location without further application and appropriate review process.
3. Operation of the temporary shelter encampment shall comply with the Management Responsibility Plan in the record at Exhibit 6 as finally approved by the Community, Planning, & Economic Development Department.
4. Operation of the temporary shelter encampment shall comply with an adopted Code of Conduct consistent with EMC 19.08.200.B(12), provided that the Municipal Code standards EMC 19.08.200.B(12)(a) are modified to require compliance with the following: "Use of drugs or alcohol that results in behavior that impacts the residents of the pallet community, or neighbors of the community, will result in the development of an action plan to reduce future community impacts utilizing a harm reduction model."
5. The Pallet shelter structures shall maintain minimum setbacks of 40 feet from the north, south, and east lot lines, with a minimum separation of six feet between the Pallet shelters.

**Decided June 28, 2021.**



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Sharon A. Rice  
City of Everett Hearing Examiner

“Appeals of Hearing Examiner Decisions. Pursuant to City of Everett Municipal Code Title 15.24.320.C, the decision of the examiner on Review Process IIIA applications, including SEPA determinations, shall be final. Appeals of the examiner’s decisions shall be to Snohomish County superior court in accordance with RCW Chapter 36.70C and filed within twenty-one days of issuance of the decision; provided however, that appeals of the examiner’s decision on shoreline substantial development permits or revisions shall be to the Shorelines Hearings Board as set forth in RCW 90.58.180 and Chapter 461-08 WAC, the rules of practice and procedure of the Shorelines Hearings Board.”